Remarks

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

This submission is accompanied by a Request for Continued Examination and a Petition for Three-Month Extension of Time. The undersigned attorney has been given authority to respond to the outstanding office action, although the official record of correspondence should remain with Philips Intellectual Property and Standards (Attn: Yan Glickberg, Esq.), PO Box 3001, Briarcliff Manor, New York, 10510-8001.

Claims 1, 11, and 34 have been amended, and claim 2 has been cancelled. The amendments find descriptive support at, *inter alia*, original claim 2; page 32, lines 5-20, and Figure 4; and page 34, lines 13-15, and Figure 5. Therefore, no new matter has been introduced by these amendments. Claims 1, 3-8, 10-34, and 36-40 remain pending.

The rejection of claims 1-8, 10-30, 36, 39, and 40 under 35 U.S.C. §103(a) for obviousness over U.S. Patent No. 5,676,138 to Zawilinski ("Zawilinski") in view of U.S. Patent No. 6,400,996 to Hoffberg et al. ("Hoffberg") is respectfully traversed in view of the above amendments and the following remarks.

Zawilinski teaches detecting a viewer's physical response to a video stimulus, and determining an association between a semantic descriptor of the stimulus and an emotion of the viewer based on the viewer's physical response. As noted in applicants' prior response, Zawilinski presents determining the association as an end to itself, presumably to determine viewer reactions to television commercials. Zawilinski does not teach or suggest using the resultant associations to make recommendations about future programming content.

Hoffberg teaches a program recommending system, but does not teach or suggest determining the recommendation based on a viewer's reaction to *prior* programs.

In the outstanding office action at page 3, the U.S. Patent and Trademark Office ('PTO") asserts that Hoffberg discloses a recommender that satisfies the limitations of claims 1, 11, and 34 in this regard. Applicants respectfully submit that Hoffberg does *not* disclose this feature. In the text relied upon by the PTO (col. 65, lines 16-22 of Hoffberg), there is disclosure of a system being adaptive and predictive as a result of user input, past history of use, and a context of use. In the preceding paragraph of Hoffberg, at col. 65, lines 4-15, the purpose is clearly set forth, which is to provide an adaptive graphical interface for a user so that the most likely predicted user required actions at that instant of time are presented on the interface in a manner which makes the most likely options either being the only ones which are selectable, or the most easily available. This is the type of adaptation to which

Hoffberg refers. There is no indication in Hoffberg that the user would be provided with a positive recommendation and notified and/or presented with a subsequent program based on the viewer preference.

Applicants therefore submit that the combination of Zawilinski and Hoffberg is deficient in several respects.

With respect to claim 1 (and all claims dependent thereon), the combination of Zawilinski and Hoffberg fails to teach or suggest: a processor that associates a recognizable emotional response with descriptive information relating to a program that was being displayed when the physical reaction was sensed to provide a viewer preference, and a memory device that stores this viewer preference; a monitoring system that monitors subsequent programs which become available to be displayed; a recommender that is configured to recommend subsequent programs based on the viewer preference; and a system for notifying and/or presenting a subsequent program based on the viewer preference.

With respect to claim 11 (and all claims dependent thereon), the combination of Zawilinski and Hoffberg fails to teach or suggest: determining when a program segment is being received that corresponds to a pre-selected viewer response previously associated with the at least one viewer physical condition; associating a viewer preference based on the viewer response; determining predicted preferences relating to subsequent programming based on the viewer preference; and notifying and/or presenting a subsequent program based on the viewer preference.

With respect to claim 34 (and all claims dependent thereon), the combination of Zawilinski and Hoffberg fails to teach or suggest: associating the viewer emotional response with a user preference relating to the audio programming; recommending subsequent audio programming based on the user preference; and notifying and/or presenting the subsequent audio programming based on the user preference.

For these reasons, the rejection of claims 1-8, 10-30, 36, 39, and 40 for obviousness over the combination of Zawilinski and Hoffberg is improper and should be withdrawn.

The rejection of claims 31 and 32 under 35 U.S.C. §103(a) for obviousness over the combination of Zawilinski and Hoffberg as applied to claim 27, and further in view of U.S. Patent No. 5,774,591 to Black et al. ("Black") is respectfully traversed.

The teachings of Zawilinski and Hoffberg are noted above, and the deficiencies of the combination of Zawilinski and Hoffberg with respect to independent claim 11 (from which claims 31 and 32 ultimately depend) are noted above. The PTO relies on

Black for teaching a system that analyzes changes in a user's eye brows. Even if, assuming *arguendo*, this is true (which applicant does not admit), then the PTO has failed to demonstrate how Black overcomes the above-noted deficiencies of the combination of Zawilinski and Hoffberg. This rejection should therefore be withdrawn.

The rejection of claims 33 and 38 under 35 U.S.C. §103(a) for obviousness over the combination of Zawilinski and Hoffberg as applied to claims 11 and 34, and further in view of U.S. Patent Publ. No. 2003/0101449 to Bentolila et al. ("Bentolila") is respectfully traversed.

The teachings of Zawilinski and Hoffberg are noted above, and the deficiencies of the combination of Zawilinski and Hoffberg with respect to independent claims 11 and 34 (from which claims 33 and 38 depend, respectively) are noted above. The PTO relies on Bentolila for teaching the use of a Hidden Markov technique. Even if, assuming *arguendo*, this is true (which applicant does not admit), then the PTO has failed to demonstrate how Bentolila overcomes the above-noted deficiencies of the combination of Zawilinski and Hoffberg. This rejection should therefore be withdrawn.

The rejection of claim 37 under 35 U.S.C. §103(a) for obviousness over the combination of Zawilinski and Hoffberg as applied to claim 34, and further in view of U.S. Patent Publ. No. 2003/0005431 to Shinohara ("Shinohara") is respectfully traversed.

The teachings of Zawilinski and Hoffberg are noted above, and the deficiencies of the combination of Zawilinski and Hoffberg with respect to independent claim 34 (from which claim 37 depends) are noted above. The PTO relies on Shinohara for teaching the use of a system that recognizes spectral data related to speech. Even if, assuming *arguendo*, this is true (which applicant does not admit), then the PTO has failed to demonstrate how Shinohara overcomes the above-noted deficiencies of the combination of Zawilinski and Hoffberg. This rejection should therefore be withdrawn.

In view of all of the foregoing, applicant submits that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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